



FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Part 2429

Miscellaneous and General Requirements

AGENCY: Federal Labor Relations Authority.

ACTION: Final rule.

SUMMARY: This final rule adopts, without change, an interim final rule published in the *Federal Register* on July 10, 2023, with a correction published on July 12, 2023. The rule permits parties to proceedings before the Federal Labor Relations Authority's (FLRA's) three-Member, decisional component (the Authority) to voluntarily request – in individual cases filed through the FLRA's electronic-filing (eFiling) system – that the Authority use electronic mail (e-mail) to serve the requesting parties any decisions, orders, and notices (Authority documents) issued in those individual cases.

DATES: This final rule is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Erica Balkum, Chief, Office of Case Intake and Publication at ebalkum@flra.gov or at: (771) 444-5805.

SUPPLEMENTARY INFORMATION: On July 10, 2023, the FLRA published an interim final rule in the *Federal Register* at 88 FR 43425, amending its regulations to permit parties to proceedings before the Authority to voluntarily request – in individual cases filed through the FLRA's eFiling system – that the Authority use e-mail to serve the requesting parties any Authority documents issued in those individual cases. The *Federal Register* notice: stated that it had an effective date of July 11, 2023; solicited written comments; and requested that any such comments be submitted by August 10, 2023.

Then, on July 12, 2023, the *Federal Register* issued a correction in 88 FR 44191, changing (1) the interim final rule's effective date to July 10, 2023, and (2) the due date for comments to August 9, 2023.

The FLRA has received only two comments on the interim final rule, both of which were submitted after the corrected, August 9, 2023 due date for comments. The FLRA has nonetheless opted to consider both comments. *Cf. Reytblatt v. NRC*, 105 F.3d 715, 723 (D.C. Cir. 1997) (stating that “[a]gencies are *free* to ignore . . . late filings,” but not holding that agencies are required to do so) (emphasis added) (quoting *Personal Watercraft Indus. Ass’n v. Dep’t of Com.*, 48 F.3d 540, 543 (D.C. Cir. 1995)).

One commenter, a federal agency, fully supported the rule but suggested a specific technical change in the FLRA's eFiling system outside the scope of the rule. The other commenter, the owner and chief executive officer of a government-contracting company, did not directly address the rule but generally discussed document-based business processes.

Neither comment warrants changing the rule. Therefore, based on the rationale set forth in the interim final rule and this document, the FLRA is adopting the provision of the interim final rule as a final rule with no changes. The FLRA appreciates the comments submitted in response to the interim final rule, and will take under advisement the recommended change to the eFiling system.

Administrative Procedure Act

On July 10, 2023, the FLRA published an interim final rule (88 FR 43425) and determined that there was a basis under the Administrative Procedure Act for issuing the interim final rule with immediate effect. On July 12, 2023, the *Federal Register* issued a correction (88 FR 44191). The FLRA has considered all relevant input and information contained in the comments submitted in response to the interim final rule and has

concluded that no changes to the interim final rule are warranted. The FLRA is adopting the provisions of the interim final rule as a final rule with no changes.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the FLRA has determined that this final rule will not have a significant impact on a substantial number of small entities, because this final rule applies only to Federal agencies, Federal employees, and labor organizations representing those employees.

Executive Order 12866, Regulatory Review

The FLRA is an independent regulatory agency and thus is not subject to the requirements of E.O. 12866 (58 FR 51735, Sept. 30, 1993).

Executive Order 13132, Federalism

The FLRA is an independent regulatory agency and thus is not subject to the requirements of E.O. 13132 (64 FR 43255, Aug. 4, 1999).

Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This action is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity,

innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act of 1995

The amended regulations contain no additional information collection or record-keeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, et seq.

List of Subjects in 5 CFR Part 2429

Administrative practice and procedure, Government employees, Labor management relations.

Accordingly, the interim final rule published in the *Federal Register* on July 10, 2023, at 88 FR 43425 – and corrected on July 12, 2023, at 88 FR 44191 – is adopted as a final rule without change.

Approved: September 21, 2023.

Rebecca J. Osborne,

Federal Register Liaison,

Federal Labor Relations Authority.

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